Calendar No. 594

99TH CONGRESS
2d Session

SENATE

REPORT
99-277

PERMITTING THE UNIVERSITY OF NEVADA TO USE OR LEASE CERTAIN LANDS CONVEYED UNDER THE RECREATION AND PUBLIC PURPOSES ACT

MARCH 27 (legislative day, MARCH 18), 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1625]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1625), to authorize the conveyance of 470 acres in Nevada to the University of Nevada for use as a research and development center, having considered the same, reports favorably thereon with an amendment to the text and title of the bill and recommends that the bill as amended do pass.

On page 1, strike all of lines 3 through 9, and insert in lieu thereof:

> That (a) notwithstanding the provisions of the Recreation and Public Purposes Act (43 U.S.C. 869 *et seq.*), the Secretary of the Interior shall permit the University of Nevada to use (either directly or by lease) the lands described in subsection (b) of this Act as a site for a research and development center.
>
> (b) The lands referred to in subsection (a) are described as follows:

Amend the title to read:

> To permit the use and leasing of certain public lands in Nevada by the University of Nevada.

PURPOSE OF THE MEASURE

The purpose of S. 1625, as reported, is to direct the Secretary of the Interior to permit the University of Nevada to create a research and development center on approximately 467 acres of land which were conveyed to the University under the Recreation and Public Purposes Act.

71-010 O

S313-8

BACKGROUND AND NEED

The lands described in S. 1625 have already been patented to the University of Nevada under the Recreation and Public Purposes Act. Some 158.22 acres of the total acreage were patented on July 17, 1972, and 309.11 acres were patented on August 29, 1974. Both parcels have the same master plan of development. The lands are being used as a research facility for the Desert Research Institute and a campus for Western Nevada Community College.

The University of Nevada requested a change in the use of both parcels. The University's proposed development plan involved leasing the lands to private research and development interests for their principal use. The Bureau of Land Management and the Department's Office of the Solicitor concluded that use of lands for a research center developed by and for private companies would be inconsistent with the Recreation and Public Purposes Act and would trigger the reversionary clause. This legislation is, therefore, necessary if those lands are to be used for research purposes by the University, allowing for use and lease by private companies.

LEGISLATIVE HISTORY

S. 1625 was introduced by Senators Laxalt and Hecht on September 11, 1985. The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on S. 1625 on October 4, 1985. The Administration is opposed to enactment of S. 1625.

At a business meeting on March 26, 1986 the Senate Committee on Energy and Natural Resources ordered S. 1625, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on March 26, 1986, by a majority vote of a quorum present recommends that the Senate pass S. 1625, if amended, as described herein.

The rollcall vote on reporting the measure was 13 yeas, 2 nays, and 1 present as follows:

YEAS	NAYS	PRESENT
Mr. McClure	Mr. Metzenbaum	Mr. Rockefeller
Mr. Hatfield*	Mr. Bradley*	
Mr. Weicker*		
Mr. Domenici*		
Mr. Wallop*		
Mr. Warner		
Mr. Murkowski		
Mr. Nickles*		
Mr. Hecht		
Mr. Evans		
Mr. Johnston		
Mr. Bumpers		
Mr. Ford		

*Indicates voted by proxy.

COMMITTEE AMENDMENTS

During consideration of S. 1625 the Committee adopted an amendment which recognizes that the University of Nevada already holds title (patent) to the lands described and that the legislation does not reconvey the lands. The amendment permits the University to use or lease the lands for use as a research and development center. The subsurface rights remain with the United States. The reversionary clause in the patent remains in effect.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the *Congressional Record* for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1625. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1625 as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 1625 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, February 6, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1625, a bill "To authorize the conveyance of 470 acres in Nevada to the University of Nevada for use as a research and development center."

We oppose enactment of S. 1625.

S. 1625 would direct the Secretary of the Interior to convey at no cost approximately 470 acres of land to the University of Nevada, notwithstanding the Recreation and Public Purposes Act, in order to create a research and development center.

The lands described in S. 1625 have already been patented to the University of Nevada under the Recreation and Public Purposes Act, with 158.22 acres of the total acreage being patented on July 17, 1972, and 309.11 acres being patented on August 29, 1974. The

lands are currently being used as a research facility for the Desert Research Institute and a campus for Western Nevada Community College.

Some time ago, the University of Nevada requested a change in the use of both parcels. The University's proposed development plan involved leasing the lands to private research and development interests for their principal use. The Bureau of Land Management and the Department's Office of the Solicitor concluded that use of lands for a research center developed by and for private companies would be inconsistent with the Recreation and Public Purposes Act. Development of the research park would transfer control of the lands to private companies for their use, and such use would not necessarily be a public use, thereby violating the terms of that Act. Moreover, since under the Act the Secretary of the Interior must approve any change in use and that change can only be a use for which the grantee or transferee could obtain a conveyance under the Act, we are unable to approve the change in this case absent legislation.

Since the purpose the University wishes to make of the described parcels is not that for which it was conveyed and because it would violate a key provision of the Recreation and Public Purposes Act under which the University obtained the lands at less than fair market value, we believe such a change in use is inappropriate absent the payment of fair market value by the University. Since the University apparently wants to use the lands for commercial as well as private research purposes, it should acquire the property in a manner that allows such use—that is, on the payment of fair market value.

In addition, the Recreation and Public Purposes Act requires that each patent contain a reservation to the United States of all mineral deposits in the lands conveyed together with the right to mine and remove the minerals. S. 1625 does not have a similar provision. If this legislation is enacted, such a provision is essential to assure that the public interest is served. There is certainly no basis for granting any minerals associated with these lands to the University at no cost.

Finally, S. 1625 does not mention valid existing rights. Any transfer such as this should protect any valid existing rights.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JAMES E. CASON,
Deputy Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1625 as reported.

○